

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2307 OF 1990

Anant Ramchandra Kulkarni.

...Petitioner.

Versus

University of Pune & Ors.

...Respondents.

.....

Mrs. Neeta Karnik for the Petitioner.

Mr. Ranjit Bhosale for Respondent No.1.

Mr. P.M. Patil, AGP for Respondent No.2 to 4.

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CORAM : A. P. SHAH AND

DR. D.Y. CHANDRACHUD, JJ.

June 8, 2005.

ORAL JUDGMENT (PER DR. D. Y. CHANDRACHUD, J.):

The Petitioner served as a Professor in the University of Pune from 1969 as a first Head of the History Department and he retired from service on 30th April 1985. Prior thereto he had taught at

the Rani Parvati Devi College at Belgaum under the University of Karnataka at Dharwad between 1949 and 1952; at Ahmednagar College between 1952 and 1954; at the Dayanand College, Solapur between 1954 and 1963, both of them under the University of Pune and at the Marathwada University at Aurangabad between 1963 and 1965. The Petitioner joined the University of Pune in the Deccan College and worked there between 1965 and 1969, after which, as noted above, he served as Head of the History Department till he retired 16 years later. The Petitioner was designated as Professor Emeritus in 1985 and was a National Fellow of the Indian Council of Historical Research for the period between 1987 and 1990. The Petitioner served as a guide to PhD. students. He has over 50 research articles, 20 books and several academic distinctions to his credit. The Petitioner was nominated as UGC National Lecturer and National Fellow and served as a visiting Professor at the School of Oriental and African Studies of the University at London.

2. This petition highlights the serious hurdles which were

faced by the Petitioner in the realisation of the retiral dues to which he was justly and legitimately entitled. On his retirement from the University on 30th April 1985, the Petitioner submitted his pension papers on 6th June 1985. Thereafter, despite the passage of time, he was not paid his pension, Provident Fund and gratuity and it was only on 21st December 1987, after the expiry of 2.1/2 years that he received the first pensionary payment of Rs.57,224/-. The Petitioner was entitled to gratuity of Rs.50,000/- of which he was paid an amount of Rs.40,000/- on 5th December 1987. The balance of the amount of Rs.10,000/- was withheld until it was released by the Accountant General on the basis of a letter of the First Respondent dated 12th January 1986. Though the Petitioner had applied for commutation of pension in June 1985, his grievance is that the cheque was received only on 26th May 1988. In so far as his Provident Fund dues are concerned, the Petitioner was asked to pay the institutions' share with interest for his previous service and he paid an amount of Rs.12,416/- to the Treasury on 29th December 1986. A cheque towards the Provident Fund dues was, however, paid over

after much delay, only on 29th December 1988, in the amount of Rs.54,496/-.

3. On 7th January 1986, the Petitioner addressed a representation to the University in respect of the non-payment of his dues. . On 26th June 1986, he was informed that his papers were not processed as clearance had not been granted by the Department of History. The Petitioner was asked to authorise a deduction of Rs.10,000/- from his gratuity on certain heads. The Petitioner immediately did so on the same day. This issue of Rs.10,000/- remained unresolved until it was resolved by the Accountant General's office by ordering the Administrative Officer of the Department of Higher Education on 21st June 1989 to release the amount to the Petitioner. The Petitioner has annexed to the proceedings before this Court under Article 226 of the Constitution, copies of several representations which were addressed to the University. It appears from the correspondence on record that the office of the Chancellor had to intervene on behalf of the Petitioner to

ensure that the retiral dues to which the Petitioner was entitled in law were released to him. The Petitioner has sought interest quantified at Rs.1,31,096/- on the delayed payment of his retiral dues.

4. An affidavit in reply has been filed on behalf of the University in these proceedings. From the affidavit in reply, it emerges that after the Petitioner submitted his completed pension papers on 7th January 1986, it was only on 26th June 1986 that the pension papers were forwarded to the Administrative Officer, Higher Education (Grants), Pune. The delay on the part of the University between January and June 1986, is not satisfactorily explained. It has been averred in the affidavit that certain discrepancies were noted by the Administrative Officer, Higher Education (Grants), Pune Region, Pune on 30th August 1986 and upon which the University sought details from the Petitioner on 2nd September 1986. These were supplied by the Petitioner on 26th September 1986. In the affidavit it has been stated that there were discussions between the Registrar of the University and the Administrative Officer, Higher

Education (Grants) and an exchange of correspondence followed in the month of March 1987. This process appears to have continued 1987 and the Petitioner received his pension on 21st December 1987. In so far as the withholding of an amount of Rs.10,000/- from the gratuity is concerned, it has been stated that the Librarian had requested that an amount of Rs.4,000/- may be retained on account of the non-return of certain books belonging to the University. A deduction of Rs.8,753/- was stated to have been made on a requisition by the Head of the Department of History.

5. We have considered the material on record and heard Learned Counsel. The facts of the case demonstrate a gross delay on the part of the Respondents in fulfilling the legal obligation of ensuring an expeditious disbursal of the retiral dues of the Petitioner. Even assuming that certain amounts were required to be retained on account of the requisitions made by the Department of History, the Petitioner had promptly agreed to this. There was no justification for the long delay in processing the admitted dues of the Petitioner.

6. When this petition came up for admission, a Division Bench of this Court in its order dated 3rd August 1990 took serious note of the manner in which a distinguished Professor had been dealt with in the matter relating to the release of his retiral dues. The University was directed to deposit an amount of Rs.30,000/- on account without prejudice and the Petitioner was permitted to withdraw the same on furnishing a Bank Guarantee to the satisfaction of the Registrar of the Court. We share the anguish that has been expressed in the interim order of the Division Bench. A distinguished academician who rendered long years of service in pursuit of the cause of education ought to have been dealt with greater sensitivity than is reflected in the present case. Retiral dues are not matters of largesse but constitute a rightful entitlement of an employee. These must be paid expeditiously.

7. In the course of the hearing of these proceedings, Counsel appearing on behalf of the Petitioner has fairly stated that the

Petitioner would confine his claim of interest to the extent of Rs.30,000/-. In these circumstances, we dispose of this petition by directing the University to compute the interest which was due and payable to the Petitioner on the delayed payment of his retiral dues upon the expiry of a period of six months from the date of his retirement until payment at the rate of 12% p.a. Having regard to the statement which has been made before the Court, there shall, however, be a ceiling of Rs.30,000/- on the interest on the retiral dues due to the Petitioner. In the event that the University has deposited an amount of Rs.30,000/- in pursuance of the interim order passed by this Court on 3rd August 1990 and the amount has been withdrawn by the Petitioner, subject to furnishing a Bank Guarantee, the Guarantee shall stand discharged upon the University furnishing its computation of interest due and payable within a period of eight weeks from today to the Registrar. The Petition shall stand disposed of in these terms. No order as to costs.

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